

**ASSEMBLY BILL**

**No. 2573**

**Introduced by Assembly Member Leno**

February 23, 2006

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An act to amend Section 2828 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2573, as introduced, Leno. Electricity: Hetch Hetchy Water and Power solar generation.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the City and County of San Francisco to elect to designate specific photovoltaic generation facilities meeting specified conditions as Hetch Hetchy Water and Power (HHWP) solar generation facilities, and upon election and the filing and acceptance of an advice letter with the commission establishing rates, Pacific Gas and Electric Company (PG&E) is required on a monthly basis, to credit the City and County of San Francisco for the certain electricity generated and delivered to the electric grid in accordance with specified rate criteria. Existing law provides that the HHWP photovoltaic electricity generation facilities may not exceed 5 megawatts of peak generation capacity in total. Existing law provides that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. Existing law provides that where, after a true-up process is completed, the total electricity delivered to the site by PG&E is less than the total electricity delivered to the grid by the HHWP photovoltaic facility at the site, the City and County of San Francisco is a net energy producer

at that site and receives no credit or offset for the excess electricity exported to the grid from the site.

This bill would provide that the HHWP photovoltaic electricity generation facilities may not, exclusive of qualifying remote new load, as defined, exceed 25 megawatts of peak generation capacity in total. The bill would authorize the City and County of San Francisco to use HHWP solar generation to supply electricity to qualifying remote new load by designating those facilities to be served by HHWP solar generation. The bill would delete the provision that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. The bill would require that in calculating the charge and credits for electricity usage, that PG&E treat any electricity exported to the grid by HHWP solar generation as behind the meter generation that offsets the electrical usage of qualifying remote new load.

Existing law provides that if the City and County of San Francisco engages in retail sales to customers within the service territory of PG&E, the above described provisions relative to HHWP solar generation become inoperative.

This bill would delete this provision.

(2) The bill would declare that, due to the special circumstances applicable only to HHWP solar generation facilities, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

(3) Under existing law, a violation of the Public Utilities Act, a filed tariff, or an order of the commission is a crime.

Because the provisions of this bill would require the filing of a new tariff, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2828 of the Public Utilities Code is  
2 amended to read:

3 2828. (a) As used in this section, the following terms have  
4 the following meanings:

5 (1) “Environmental attributes” associated with the Hetch  
6 Hetchy Water and Power solar generation include, but are not  
7 limited to, the credits, benefits, emissions reductions,  
8 environmental air quality credits, and emissions reduction  
9 credits, offsets, and allowances, however entitled, resulting from  
10 the avoidance of the emission of any gas, chemical, or other  
11 substance attributable to the Hetch Hetchy Water and Power  
12 photovoltaic electricity generation facility owned by the City and  
13 County of San Francisco.

14 (2) “HHWP solar generation” means the electricity generated  
15 by Hetch Hetchy Water and Power photovoltaic electricity  
16 generation facilities owned by the City and County of San  
17 Francisco, designated by the City and County of San Francisco  
18 pursuant to subdivision (b) and, *exclusive of qualifying remote*  
19 *new load, does not to exceed five twenty-five megawatts of peak*  
20 *generation capacity in total. There is no wattage limit on*  
21 *qualifying remote new load.*

22 (3) “Interconnection Agreement” means the 1987 agreement  
23 between Pacific Gas and Electric Company and the City and  
24 County of San Francisco, as filed with and accepted by the  
25 Federal Energy Regulatory Commission (FERC), and as  
26 amended from time to time with FERC approval, which provides  
27 for rates for transmission, distribution, and sales of supplemental  
28 electricity to the City and County of San Francisco. Nothing in  
29 this section shall waive or modify the rights of parties under the  
30 Interconnection Agreement or the jurisdiction of the FERC over  
31 rates set forth in the Interconnection Agreement.

32 (4) “Appropriate TOU tariff” means the Time-of-Use tariff  
33 that would be applicable to the City and County of San Francisco  
34 account at the photovoltaic project site if the facility at the site  
35 were a Pacific Gas and Electric Company bundled customer, as  
36 determined by Pacific Gas and Electric Company.

37 (5) “*Qualifying remote new load*” means *electricity demand of*  
38 *the City and County of San Francisco for public purposes*

1 pursuant to the Raker Act (Public Law 63-41, 38 Stat. 412), at a  
2 site that is separate from, and not adjacent to, the site where the  
3 photovoltaic project is located, and serviced through a meter or  
4 multiple meters other than those serving the site where the  
5 photovoltaic project is located. The separate or remote site may  
6 be designated by the City and County of San Francisco, both  
7 inside and outside of the City and County of San Francisco, at a  
8 facility that begins operations after January 1, 2006.

9 (b) The City and County of San Francisco may elect to  
10 designate specific photovoltaic electricity generation facilities as  
11 HHWP solar generation, if all of the following conditions are  
12 met:

13 ~~(1) No single photovoltaic generation project exceeds one~~  
14 ~~megawatt of peak generation capacity.~~

15 ~~(2)~~

16 (1) The photovoltaic project utilizes a meter, or multiple  
17 meters, capable of separately measuring electricity flow in both  
18 directions. All meters shall provide “time-of-use” measurement  
19 information. If the existing meter at the site of the photovoltaic  
20 project is not capable of providing time-of-use information or is  
21 not capable of separately measuring total flow of energy in both  
22 directions, the City and County of San Francisco is responsible  
23 for all expenses involved in purchasing and installing a meter or  
24 meters that are both capable of providing time-of-use information  
25 and able to separately measure total electricity flow in both  
26 directions.

27 ~~(3)~~

28 (2) The amount of all electricity delivered to the electric grid  
29 by the designated HHWP solar generation is the property of  
30 Pacific Gas and Electric Company.

31 ~~(4)~~

32 (3) The City and County of San Francisco does not sell  
33 electricity delivered to the electric grid from the designated  
34 HHWP solar generation to a third party.

35 ~~(5)~~

36 (4) Ownership and use of the environmental attributes  
37 associated with the electricity delivered to the electric grid by  
38 HHWP solar generation shall be determined by the commission  
39 in accordance with Article 16 (commencing with Section 399.11)  
40 of Chapter 2.3 of Part 1.

(c) For each site of a photovoltaic project that comprises the HHWP solar generation, Pacific Gas and Electric Company shall identify the appropriate TOU tariff for that site. Any electricity exported to the Pacific Gas and Electric Company grid at that site *that is not offset by qualifying remote new load served by the City and County of San Francisco pursuant to subdivision (h)* shall, for each time-of-use period, result in a monetary credit to be applied monthly as a credit or offset against the invoice created pursuant to the Interconnection Agreement and shall be valued at the generation component of the appropriate TOU tariff. The commission shall determine if it is appropriate to increase the credit to reflect any additional value derived from the location or the environmental attributes of, the designated HHWP solar generation.

(d) Monthly charges and credit amounts are interim and subject to an accounting true-up, consistent with commission policies and practices. The true-up shall be performed annually or upon the termination, for any reason, of the Interconnection Agreement. The true-up shall accomplish the following:

(1) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up equals or exceeds the total electricity exported to the grid by the Hetch Hetchy photovoltaic electricity generation facility at the site, the City and County of San Francisco is a net electricity consumer at that site. For any site where the City and County of San Francisco is a net electricity consumer, a credit or offset shall be applied to reduce the obligations of the City and County of San Francisco to an invoice prepared pursuant to the Interconnection Agreement. If there is no invoiced obligation to be reduced, there is no applicable credit.

(2) If the total electricity delivered to the site by Pacific Gas and Electric Company since the previous true-up is less than the total electricity exported to the grid by the Hetch Hetchy photovoltaic electricity generation facility at the site, the City and County of San Francisco is a net electricity producer at that site. For any site where the City and County of San Francisco is a net electricity producer, the City and County of San Francisco shall receive no credit or offset for the electricity exported to the grid in excess of the electricity delivered to the site from the grid. For any site where the City and County of San Francisco is a net

1 electricity producer, the City and County of San Francisco shall  
2 receive a credit or offset up to the amount of electricity delivered  
3 to the site from the grid. The credit or offset shall be applied to  
4 reduce the obligations of the City and County of San Francisco to  
5 an invoice prepared pursuant to the Interconnection Agreement.  
6 If there is no invoiced obligation to be reduced, there is no  
7 applicable credit or offset. Pacific Gas and Electric Company  
8 shall use the last-in, first-out method to determine what  
9 electricity delivered to the grid from the site will not earn a credit  
10 or offset.

11 ~~(e) Notwithstanding any other provision of this section, if the~~  
12 ~~City and County of San Francisco engages in retail sales to~~  
13 ~~customers within the service territory of Pacific Gas and Electric~~  
14 ~~Company, as a result of becoming a community choice~~  
15 ~~aggregator, as a result of municipalization, or otherwise, all other~~  
16 ~~provisions of this section shall become inoperative.~~

17 ~~(f)~~

18 (e) Pursuant to this section, the offset to charges under the  
19 Interconnection Agreement is the medium to convey credits  
20 earned under this section. Nothing in this section shall be  
21 construed to affect in any way the rights and obligations of the  
22 City and County of San Francisco and Pacific Gas and Electric  
23 Company under the Interconnection Agreement. *If the*  
24 *Interconnection Agreement terminates, the City and County of*  
25 *San Francisco and Pacific Gas and Electric Company shall*  
26 *develop an alternative mechanism to convey credits earned*  
27 *under this section, in a manner that accomplishes the same result*  
28 *as that accomplished pursuant to the Interconnection Agreement.*

29 ~~(g)~~

30 (f) Pacific Gas and Electric Company shall file an advice letter  
31 with the commission, that complies with this section, not later  
32 than 10 days after the City and County of San Francisco first  
33 designates the specific generation facilities that will comprise  
34 HHWP solar generation. The commission, within 30 days of the  
35 date of filing of the advice letter, shall approve the advice letter  
36 or specify conforming changes to be made by Pacific Gas and  
37 Electric Company to be filed in an amended advice letter within  
38 30 days.

39 ~~(h)~~

1 (g) The City and County of San Francisco may terminate its  
2 election pursuant to subdivisions (b), (c), and (d), upon providing  
3 Pacific Gas and Electric Company with a minimum of 60 days'  
4 written notice.

5 (h) *The City and County of San Francisco may use HHWP*  
6 *solar generation to supply electricity to qualifying remote new*  
7 *load by designating those facilities to be served by HHWP solar*  
8 *generation. In determining the monthly charges and credit*  
9 *amounts pursuant to subdivisions (c) and (d), Pacific Gas and*  
10 *Electric Company shall treat any electricity exported to the grid*  
11 *by HHWP solar generation as behind the meter generation that*  
12 *offsets the electrical usage of qualifying remote new load.*

13 SEC. 2. The Legislature finds and declares that, because of  
14 the unique circumstances applicable only to Hetch Hetchy Water  
15 and Power solar generation of electricity, a statute of general  
16 applicability cannot be enacted within the meaning of  
17 subdivision (b) of Section 16 of Article IV of the California  
18 Constitution. Therefore, this special statute is necessary.

19 SEC. 3. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the  
24 penalty for a crime or infraction, within the meaning of Section  
25 17556 of the Government Code, or changes the definition of a  
26 crime within the meaning of Section 6 of Article XIII B of the  
27 California Constitution.